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COMMISSION ON HUMAN RIGHTS

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SUMMARY RECORD OF THE 69th MEETING

Held at the Palais des Nations, Geneva,
on Friday, 20 April 2001, at 3 p.m.

Chairperson: Mr. DESPOUY (Argentina)

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The meeting was called to order at 3.15 p.m.

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD, INCLUDING:

(a) QUESTION OF HUMAN RIGHTS IN CYPRUS (agenda item 9) (continued)

Draft resolution on the situation of human rights in Sierra Leone (E/CN.4/2001/L.27)

1. Mr. VON KAUFMANN (Canada), introducing the draft resolution, said that the Commission would welcome the draft agreement between the Secretary-General and the Government of Sierra Leone on the creation of an independent Special Court (para. 1 (h)) and the signing of the Abuja agreement (para. 1 (c)) and would call upon all parties to the conflict to implement that agreement. However, it would also express concern at the ongoing hardship experienced by the population in the Mano River region, which was exacerbated by tensions between neighbouring countries. He hoped that the draft resolution would be adopted by consensus.

2. Mrs. IZE-CHARIN (Secretary of the Commission) announced that the representatives of France, Japan and Poland and the observers for Finland, Greece and Sweden had become sponsors of the draft resolution, which had no financial implications.

3. The draft resolution was adopted.

Draft resolution on the situation of human rights in Burundi (E/CN.4/2001/L.28)

4. Ms. MOHAMED (Kenya), introducing the draft resolution on behalf of the African Group, said that the Commission would welcome the dismantling of the regroupment camps (para. 12), the entry into force of the new Code of Penal Procedure (para. 15) and the signing of the Peace and Reconciliation Agreement (para. 3) and would encourage the Government to continue its efforts to promote human rights. She hoped that the draft resolution would be adopted by consensus.

5. Mrs. IZE-CHARIN (Secretary of the Commission) announced that the representative of the United States of America had become a sponsor of the draft resolution.

6. Mr. NAHAYO (Burundi) said that, while his Government was prepared to implement the Peace and Reconciliation Agreement, the latter would have no effect if the violence continued. He urged everyone to press the rebels to join with the Government and others so as to ensure that Burundi became a State governed by the rule of law.

7. Mr. RICHARD (Office of the High Commissioner for Human Rights) presenting the financial implications of the draft resolution, said that the cost of activities to implement the decision to extend the mandate of the Special Rapporteur for a further year would amount

to US$ 69,500. However, since provision had already been included for those activities in the Programme Budget for the current biennium, and the proposed programme budget for the biennium 2002-2003, no additional appropriations would be required.

8. The draft resolution was adopted.

Draft resolution on the situation in Equatorial Guinea and assistance in the field of human rights (E/CN.4/2001/L.29)

9. Ms. MOHAMED (Kenya), introducing the draft resolution on behalf of the African Group, said that the texts sought to reflect the human rights situation on the ground as accurately as possible. According to the text, the Commission would urge the Government to promote and protect all human rights, including the right to justice and the independence of the judiciary, and call on the specialized bodies and agencies of the United Nations, as well as the donor countries to help the Government strengthen national human rights institutions (para. 2 (e)). It would also decide to renew the mandate of the Special Representative. The text took the views expressed by other delegations into account as far as possible and she hoped that it would be adopted by consensus.

10. Mrs. IZE-CHARIN (Secretary of the Commission) announced that the representative of the United States of America had become a sponsor of the draft resolution.

11. Mr. OYANA (Observer for Equatorial Guinea), speaking as a sponsor and urging support for the draft resolution, said that there were no grave or systematic violations of human rights in his country. It merely required assistance in order to continue to promote and protect human rights at home and abroad. Consensus had been achieved following consultations conducted in an atmosphere of transparency, with the text having been revised to accommodate the concerns of certain Western countries.

12. His Government continued to cooperate with the Commission in a constructive manner and to welcome visits from its mechanisms. The previous year had proved an exception, but that had been due to the Special Representative's lack of clarity and abuse of his mandate. Permitting a Special Rapporteur to visit Spain in order to prepare a report on Equatorial Guinea surely set a dangerous precedent.

13. Ms. ACOSTA (Mexico) said that, in the interests of consensus, her delegation would support the draft resolution. However, she wished to draw attention to some inconsistencies. Firstly, according to the last preambular paragraph, there continued to be deficiencies in technical support to Equatorial Guinea in the field of human rights. The fact was that the deficiencies were in the human rights situation in Equatorial Guinea. The Special Representative had said that Equatorial Guinea had received much assistance over the years and that it should first make use of the funds it had received; that was borne out by the eighth preambular paragraph.

14. Secondly, paragraph 1 referred to the work of the Special Representative, whereas paragraph 5 welcomed the recent invitations by the Government. In fact, the Special Representative had not been authorized to visit the country and the observer for Equatorial Guinea had stated in rather unflattering terms that he was not welcome. Inexplicably, the draft resolution contained no appeal to the Government to cooperate with the human rights mechanisms. That silence should not be interpreted as an acceptance of such behaviour. The Commission must ensure that the Government would give the Special Representative every assurance that he would be able to fulfil his mandate in the current year.

15. Those inconsistencies must be taken into account if the adoption of the draft resolution was to contribute to the success of efforts to promote human rights in Equatorial Guinea and safeguard the credibility and effectiveness of the Commission.

16. Mr. DEMBRI (Algeria) said that there was a preliminary issue that needed to be decided. He would like to have an opinion from the legal counsel as to whether the Special Representative's report and paragraph 1 of the draft resolution were admissible. Since the Special Representative had not been given leave to visit Equatorial Guinea, he had gone to Spain where he had met elements of the opposition. While it was perfectly in order for him to take the views of the opposition into account, it did not seem acceptable for the entire report to be based on the views of those elements. That would be a very dangerous precedent. Accordingly, the Commission should wait until it had received a legal opinion before taking a decision on the draft resolution.

17. Mr. MERCKX (Belgium), speaking on behalf of the European Union, said that the Union had actively participated in negotiations on the draft resolution. In particular, it had expressed its serious concern that the Special Representative had not been allowed to visit Equatorial Guinea in 2000. It had also regretted that the draft resolution contained no reference to the Special Representative's report (E/CN.4/2001/38). In stressing paragraph 5 of the draft resolution, the Union wished to reiterate its call to Equatorial Guinea to cooperate with the Special Representative and to make full use of his observations and advice.

18. Although the Union noted with appreciation that some of its concerns had been accommodated, the text continued to raise important questions. The Union would have preferred to retain the title of the previous year's resolution (resolution No. 2000/19), which would have involved the insertion of the words "of human rights" after the word "situation". As agreed during the consultations, the fourteenth preambular paragraph should read: "*Taking note* of the fact that there continue to be deficiencies in the field of human rights in Equatorial Guinea" - the version originally proposed by the African Group.

19. The Union strongly encouraged the Government of Equatorial Guinea to seek technical assistance from the Office of the High Commissioner for Human Rights (OHCHR), as well as to request assistance by the United Nations funds and programmes, such as the United Nations Development Programme (UNDP).

20. Paragraphs 8 and 11 contained inconsistencies with respect to the tasks assigned to the Special Representative. The Union would have wished those tasks to be more clearly reflected, and for the Special Representative to be requested:

> "To monitor and examine the situation of human rights in Equatorial Guinea and to report to the Commission at its fifty-eighth session, keeping in mind the need to apply the gender perspective in the reporting process, including in collecting information and in the recommendations;
>
> "To assist the Office of the High Commissioner for Human Rights in order to define, with the Government and the civil society of Equatorial Guinea, technical assistance that may be provided to Equatorial Guinea for adopting and implementing a National Human Rights Plan of Action based on the recommendations made by the Commission on Human Rights; and
>
> "To monitor, on behalf of the Commission, that the technical assistance provided to Equatorial Guinea be aimed to support the recommendations made by the Commission on Human Rights since 1979."

21. Mr. MENDONÇA e MOURA (Portugal), said that, if the Commission were to agree that any representative could ask for a legal opinion on any report, it would be possible to block consideration of any draft resolution. The issue at stake was the work of the Special Representative. There was no reference in the draft resolution to the Special Representative's report. That was no accident, but the product of lengthy negotiations with the African Group. Any representative was free to ask for postponement of any issue; however, it should do so openly and the Commission could then take a decision on the proposal.

22. Mr. DEMBRI (Algeria) said that, since it was clearly the will of the Commission that its Special Representative be allowed to visit Equatorial Guinea, he proposed that paragraph 1 of the draft resolution be deleted and replaced by: "*Expresses the hope* that the Special Representative will be able to have access to the territory of Equatorial Guinea in order to draw up his report".

23. Mr. MENDONÇA e MOURA (Portugal) drew attention to operative paragraph 5 of the draft resolution, which read: "*Welcomes* the recent invitations by the Government of Equatorial Guinea to the Special Representative and to the thematic rapporteurs of the Commission and looks forward to their early visits and their recommendations contributing to the implementation of the national plan of action on human rights". If the Commission were unable to agree that the concerns expressed by the representative of Algeria were met by the provisions of paragraph 5, then he proposed that a vote be taken by roll-call on the Algerian proposal.

24. Mr. DEMBRI (Algeria), speaking on a point of order, said that paragraph 5 referred to invitations for future visits, whereas paragraph 1 referred to an expression of gratitude for work that had not been done in accordance with the Commission's mandate. He had proposed his amendment in the framework of an established consensus and, if there was no consensus, and a vote was to be taken on the draft resolution as it stood, his delegation would vote against it.

25. The CHAIRPERSON said that clearly no consensus existed since the representative of Portugal had called for a roll-call vote on the amendment proposed by the representative of Algeria.

26. Ms. MOHAMED (Kenya) said that the proposed amendment was unacceptable to her delegation, which considered it presumptuous and prejudicial in that it presupposed that access for the Special Representative had been denied. If a vote were to be taken on the proposed amendment, her delegation would vote against it.

27. The CHAIRPERSON suggested that it might be possible to reach consensus if the word "work" in paragraph 1 were replaced by the word "efforts".

28. Mr. DEMBRI (Algeria) said he could accept the modification suggested by the Chairperson in the interest of achieving consensus.

29. Mr. RICHARD (Office of the United Nations High Commissioner for Human Rights), outlining the financial implications, said that, under the terms of the draft resolution, the Commission would decide to extend the mandate of the Special Representative for a further year. The cost of those activities was estimated at US$ 39,350. The relevant provisions had been included in the Programme Budget for the current biennium 2000-2001 and in the proposed programme budget for the biennium 2002-2003.

30. The draft resolution, as orally amended, was adopted without a vote.

Draft resolution on the situation of human rights in Rwanda (E/CN.4/2001/L.32) and proposed amendments to the draft resolution on the situation of human rights in Rwanda (E/CN.4/2001/L.58)

31. Ms. MOHAMED (Kenya), introducing the draft resolution on behalf of the African Group, said that substantial improvements in the human rights situation in Rwanda were reflected in the Special Representative's report (A/55/269 and E/CN.4/2001/45/Add.1). Systematic human rights violations no longer occurred and the Government had introduced a programme to deal with the problem of overcrowded prisons and detention centres; the remaining deficiencies were due to a lack of resources, for which the international community should provide technical and financial assistance. The agreement signed by OHCHR and the National Commission for Human Rights of Rwanda was encouraging, as was the operation of the National Unity and Reconciliation Commission, the Constitutional Commission and, most importantly, the National Commission for Human Rights itself. The African Group therefore felt that the time had come for the Commission to end the Special Representative's mandate and indicate its support for what Rwanda had accomplished. Countries should not be sent the message that they were under eternal scrutiny.

32. Ms. GERVAIS-VIDRICAIRE (Canada), introducing the proposed amendments to draft resolution E/CN.4/2001/L.32 (E/CN.4/2001/L.58), said that the Special Representative had referred in both his report and his statement to the Commission to a number of continuing areas of concern with regard to human rights in Rwanda. Although the current Special Representative had decided not to seek to continue in the position, he had expressed his willingness to do so

should his mandate be renewed by consensus. He could continue to play a valuable role in identifying ways in which the international community could provide assistance to the Government and people of Rwanda.

33. The sponsors of the amendments to the draft resolution had attempted to negotiate a consensus text with the sponsors of the draft resolution, but all their proposals had been rejected. The sponsors of the proposed amendments had orally revised them and proposed that the Commission should consider only paragraphs 7, 12 and 14, all of which were taken from Commission resolution 2000/21, adopted without a vote on 18 April 2000, together with a modified paragraph 13, which would read: "*Decides to* consider the question of the situation of human rights in Rwanda at its fifty-eighth session under agenda item 19, entitled 'Advisory services and technical cooperation in the field of human rights'". The substantive paragraphs of the draft resolution would remain unchanged.

34. The proposed amendments as revised represented a genuine attempt to reach a compromise acceptable to all delegations. It would be most unfortunate if the amendments - and the resolution, if the amendments were not adopted - had to be put to a vote.

35. Mr. AKRAM (Pakistan), supported by Mr. REYES RODRÍGUEZ (Cuba), said that, according to rule 63 of the rules of procedure, an amendment should do no more than add to, delete from or revise part of another proposal. The proposed amendments would retain only 4 paragraphs of the 14 comprising the draft resolution and its purpose was completely contrary to the nature of that draft resolution. It was therefore a new proposal. The draft resolution should thus be voted on first and, only if it was not adopted, should the Commission consider the text as modified by the proposed amendments.

36. Ms. GERVAIS-VIDRICAIRE (Canada) said that, in point of fact, the proposed amendments sought to change 2 paragraphs of the 11 comprising the draft resolution and to add 2 new paragraphs. The text of the proposed amendments could not stand alone; and substantial elements of the draft resolution remained unchanged. The proposed amendments were thus clearly not a new proposal.

37. Ms. MOHAMED (Kenya) said that the proposed amendments were most disappointing; as the representatives of Pakistan and Cuba had said, they completely changed the thrust of the draft resolution. Action should therefore be taken on the latter before the proposed amendments were considered.

38. Mr. MERCKX (Belgium), speaking on behalf of the European Union, said that the material contained in document E/CN.4/2001/L.58 constituted amendments and should therefore be acted upon before the draft resolution contained in document E/CN.4/2001/L.32. The structure of the former document clearly indicated that it consisted of amendments and was, in any case, an incomplete text without the paragraphs contained in the latter document. The substantial number of amendments was unfortunate but was due to the fact that none of the proposals made by the Union and other delegations had been taken into consideration by the sponsors of the draft resolution.

39. Mr. SAHRAOUI (Algeria) said that, whereas paragraph 5 of the draft resolution contained the decision to end the Special Representative's mandate, paragraph 12 of the proposed amendments would decide to extend the mandate for a year. The two were clearly utterly incompatible.

40. Ms. GLOVER (United Kingdom) said that the proposed amendments contained in document E/CN.4/2001/L.58, as revised, did not substantively alter draft resolution E/CN.4/2001/L.32. In accordance with the rules of procedure, document E/CN.4/2001/L.58 should thus be considered first.

41. Mr. REN Yisheng (China) said that the amendments surely amounted to a brand new proposal, by virtue of their scope and substance. In accordance with the rules of procedure, action should thus first be taken on draft resolution E/CN.4/2001/L.32, as the representative of Pakistan had proposed.

42. At the request of the representative of Canada, a vote was taken by roll-call on the procedural proposal by Pakistan.

43. Romania, having been drawn by lot by the Chairperson, was called upon to vote first.

In favour: Algeria, Burundi, Cameroon, China, Colombia, Cuba, Democratic Republic of the Congo, Guatemala, Indonesia, Kenya, Liberia, Libyan Arab Jamahiriya, Madagascar, Malaysia, Mauritius, Mexico, Niger, Nigeria, Pakistan, Peru, Qatar, Russian Federation, Saudi Arabia, Senegal, South Africa, Swaziland, Syrian Arab Republic, Thailand, Viet Nam, Zambia.

Against: Argentina, Belgium, Brazil, Canada, Costa Rica, Czech Republic, Ecuador, France, Germany, Italy, Japan, Latvia, Norway, Poland, Portugal, Republic of Korea, Romania, Spain, United Kingdom of Great Britain and Northern Ireland, Uruguay, United States of America, Venezuela.

Abstaining: India.

44. The procedural proposal by Pakistan was approved by 30 votes to 22, with 1 abstention.

45. Mr. EUGÈNE-RICHARD (Observer for Rwanda) expressed his appreciation to those members of the Commission who had enabled his country to surmount the first hurdle in its quest for acceptance in the community of nations. The vote should not, however, have been necessary. It was scandalous that Canada and the other sponsors had sought to put forward such amendments, particularly the attempt to keep consideration of the situation under agenda item 9. Times had changed in Rwanda and what was really relevant was agenda item 19: his country needed advisory services and technical cooperation in the field of human rights. Visitors to Rwanda had noticed that an atmosphere of serenity prevailed.

46. He asked what action Canada had taken in 1994 and the preceding years, when his country's situation had been discussed by the Commission, but only behind closed doors, following the report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, in which the Special Rapporteur had concluded that the Convention on the Prevention and Punishment of the Crime of Genocide was applicable. Indeed, according to a contemporary report by the Central Intelligence Agency (CIA), a plan to exterminate the Tutsi people had actually existed. The United States and the United Kingdom had originally denied in the Security Council that genocide was taking place, but President Clinton had subsequently apologized for that assertion and the United Kingdom had become one of Rwanda's staunchest helpers. Only Canada had been notable by its absence.

47. The English philosopher Bertrand Russell had, as early as 1964, referred to the situation in Rwanda as the most terrible and systematic extermination of a people since the Nazis had murdered the Jews, yet for years the international community had ignored it. United Nations forces had been withdrawn, as had Belgian commandos. United States troops in Burundi could have helped. Action had been taken to evacuate the pet animals of various foreign nationals, but his people had been left to die.

48. As the son and grandson of refugees, he - like the others of his generation - did not want the country's children to suffer the same fate. Yet, against that background, the representative of Canada had put forward outdated amendments, which were devoid of substance. Her delegation had stressed the need for adequate infrastructure; but if its concern for Rwanda was so great, it should do more to provide the wherewithal. Nor was there any reference to the need for compensation for victims.

49. He apologized for allowing himself to become so emotional, but his country had suffered greatly and it was time that its achievements over the past seven years were recognized.

50. Ms. GERVAIS-VIDRICAIRE (Canada), having expressed surprise at the virulent tone of the previous speaker's remarks, recalled that it was her delegation that had requested a special session of the Commission on Rwanda in 1994. Canada had also made an important contribution to peacekeeping activities.

51. Mr. ARENALES FORNO (Guatemala) recalled that his country had also for many years been subject to the Commission's consideration under agenda items 9 and 19. Even though such consideration had ended, Guatemala continued to cooperate with Commission mechanisms and to benefit from international assistance in the field of human rights. Since the Government of Rwanda had not only accepted, but actually requested such assistance, the international community could best demonstrate its support by adopting draft resolution E/CN.4/2001/L.32 without any amendments. The Commission could then focus on other situations of concern.

52. Ms. ACOSTA (Mexico) said that the case of Rwanda demonstrated that once effective international cooperation was established, a country situation could be rapidly improved. The Government of Rwanda should be encouraged to continue its efforts to improve the human rights situation in the country, including through further constructive cooperation with the Commission

mechanisms. Her delegation would be following with interest the implementation of the agreement signed by the High Commissioner for Human Rights and the National Commission for Human Rights of Rwanda.

53. Mr. DEMBRI (Algeria) said that the emotion shown by the observer for Rwanda gave clear expression of his country's aspirations. Whatever the tone of the remarks, the Commission had a duty to listen to the voice of a people that had suffered so much. In particular, the Commission should strengthen the regional mechanisms for protecting human rights, particularly in the field of conflict resolution. Thanks to his own Government's efforts to mediate between the Governments of Ethiopia and Eritrea - and to the cooperation of the United Nations, the European Union, Organization for African Unity (OAU) and United States of America - considerable progress had been achieved in under a year. Such regional efforts were more effective than the biased and confrontational presentation of situations within the Commission.

54. The roots of the Rwandan genocide were highly complex. It was to be regretted that no mention had been made at the current session of the trial of Rwandan genocide suspects currently under way in Brussels, of the hearings that had been held in the United States, or of the important report prepared by Mr. Mahaoux and Mr. Verhofstadt on behalf of the commission of inquiry of the Belgian parliament.

55. Rwanda had made considerable progress in respect of national reconstruction and reconciliation. The international community could best uphold its efforts by supporting the draft resolution by consensus.

56. Mr. NAHAYO (Burundi), expressing his support for the draft resolution, said that since the Special Representative in his report (E/CN.4/2001/45/Add.1) had declared himself satisfied with the Government of Rwanda's commitment to human rights, the Commission was no longer justified in continuing its consideration of that country's situation. It was to be regretted, moreover, that certain delegations had attempted to persuade the Special Representative to change his position.

57. Mrs. IZE-CHARRIN (Secretary of the Commission) said that the draft resolution had no financial implications.

58. Mr. MERCKX (Belgium), explaining the position of the European Union, recalled the terms of the Special Representative's mandate. The Union strongly favoured an extension of the mandate since it was convinced that the continued assistance of the Special Representative to national human rights machinery and to the Government of Rwanda would have strengthened the ongoing process of improving the human rights situation in the country.

59. The Union welcomed the agreement concluded between OHCHR and the National Commission for Human Rights of Rwanda. Since the latter was an independent institution, continued assistance to the Government remained relevant.

60. The Union was of the view that the draft resolution did not accurately reflect the human rights situation in Rwanda. The Special Representative had identified several areas of concern in his report (E/CN.4/2001/45/Add.1), notably in respect of the situation in Rwandan prisons and cachots, the problems of minors in detention and other vulnerable detainees, internally displaced persons and the freedom of association of the press. Furthermore, the Union remained concerned at the lack of equal opportunities for the participation of all political parties. The Union was also concerned at the situation in the neighbouring region and wished to remind the Government of Rwanda of its responsibility and accountability for ensuring respect for human rights both by Rwandan forces and by other armed forces under its control.

61. At the request of the representative of Canada, a vote was taken by roll-call on the draft resolution on the situation of human rights in Rwanda (E/CN.4/2001/L.32).

62. Swaziland, having been drawn by lot by the Chairperson, was called upon to vote first.

In favour: Algeria, Burundi, Cameroon, China, Colombia, Costa Rica, Cuba, Democratic Republic of the Congo, Guatemala, Indonesia, Kenya, Liberia, Libyan Arab Jamahiriya, Madagascar, Mauritius, Niger, Nigeria, Pakistan, Qatar, Russian Federation, Saudi Arabia, Senegal, South Africa, Swaziland, Syrian Arab Republic, Thailand, Viet Nam, Zambia.

Against: Argentina, Belgium, Canada, Czech Republic, France, Germany, Italy, Japan, Latvia, Norway, Poland, Portugal, Republic of Korea, Romania, Spain, United Kingdom of Great Britain and Northern Ireland.

Abstaining: Brazil, Ecuador, India, Malaysia, Mexico, Peru, Uruguay, United States of America, Venezuela.

63. The draft resolution was adopted by 28 votes to 16, with 9 abstentions.

64. The CHAIRPERSON said that, in view of the results of the vote, the Commission might wish to decide, in accordance with rule 65 of the rules of procedure, to take no action on the proposed amendments (E/CN.4/2001/L.58).

65. It was so decided.

The meeting rose at 6.05 p.m.